

**SUMMARY REPORT OF INVESTIGATION****I. EXECUTIVE SUMMARY**

Date of Incident:	November 29, 2017
Time of Incident:	2:25 pm
Location of Incident:	[REDACTED] Chicago, IL 60637
Date of COPA Notification:	November 29, 2017
Time of COPA Notification:	3:05 pm

On November 29, 2017, Officers [REDACTED] and [REDACTED] were working as tactical officers in the [REDACTED] District, assigned to Beat [REDACTED]. At approximately 2:15 pm, they responded to multiple 911 calls reporting shots fired near [REDACTED] and [REDACTED] ([REDACTED]). While traveling to the location, the officers received a Portable Data Terminal (PDT) message indicating that a 911 caller saw someone throw an item on the side of the “big yellow building,”<sup>1</sup> which Officer [REDACTED] believed was a reference to the apartment building at [REDACTED]. The officers parked in front of [REDACTED] and split up. Officer [REDACTED] stayed in front of the building to observe a group of people standing on the sidewalk, while Officer [REDACTED] walked into the building’s central courtyard and began to look for the discarded item.

Officer [REDACTED] entered the courtyard and noticed a black male, now identified as [REDACTED], walk toward him. When they made eye contact, [REDACTED] gave Officer [REDACTED] a surprised look, grabbed his right waistband, turned around, and fled. [REDACTED] ignored Officer [REDACTED] verbal commands to stop. The officer gave chase, pursuing [REDACTED] up the stairs and into an apartment on the second floor of the building. [REDACTED] ran through the apartment, and when he reached the back door, Officer [REDACTED] observed him pull a black handgun from his right waistband. [REDACTED] exited the apartment and ran across the rear second-floor porch with the weapon in his right hand. When he reached the end of the porch and turned to go down the stairs, [REDACTED] wrapped his right arm around the banister, causing the weapon in his right hand to point in Officer [REDACTED] direction. Officer [REDACTED] discharged his weapon seven times, striking [REDACTED] in the right wrist and right mid-back.

[REDACTED] collapsed at the bottom of the stairs and was transported via ambulance to Stroger Hospital, where he succumbed to his injuries at 1:26 am the following morning. A black Glock Model 43, 9mm semi-automatic pistol with a fully loaded magazine was recovered from one of the porch stairs. COPA’s investigation concludes Officer [REDACTED] reasonably believed [REDACTED] posed an imminent threat of death or great bodily harm, and his use of deadly force was in accordance with the Chicago Police Department (CPD) Use of Force Model and General Orders.

<sup>1</sup> Atts. 6, 65.

## II. INVOLVED PARTIES

Involved Officer #1:	Julio; Star # [REDACTED] Employee # [REDACTED]; Date of Appointment: [REDACTED], 2012; Police Officer; Unit [REDACTED] Date of Birth: [REDACTED], 1983; Male; Hispanic.
Involved Individual #1:	[REDACTED] Date of Birth: [REDACTED], 1993; Male; Black.

## III. ALLEGATIONS

Any discharge of an officer's firearm results in a mandatory notification to COPA. This investigation was initiated pursuant to such notification. Upon conclusion of the investigation, COPA determined there was insufficient evidence to support bringing allegations of excessive force against Officer [REDACTED]

## IV. APPLICABLE RULES AND LAWS

### General Orders

1. G03-02, Use of Force (Effective Date: October 16, 2017)
2. G03-02-01, Force Options (Effective Date: October 16, 2017)
3. G03-02-03, Firearms Discharge Incidents Involving Sworn Members (Effective Date: October 16, 2017)

## V. INVESTIGATION<sup>2</sup>

COPA obtained and reviewed relevant video, audio, forensic, and documentary evidence associated with this officer-involved shooting. Additionally, COPA interviewed more than fifteen (15) civilian and officer witnesses, including the involved officer. The following is a summary of the material evidence obtained and analyzed by COPA in this investigation.

### a. Police Officer Interviews

Officer [REDACTED]

In a statement to COPA on December 7, 2017, Officer [REDACTED] # [REDACTED] stated on the date and time of the incident, he was working as a tactical officer in the [REDACTED] District, assigned

<sup>2</sup> COPA conducted a thorough and complete investigation. The following is a summary of the material and relevant evidence gathered and relied upon in our analysis.

<sup>3</sup> Atts. 49-52, 77. COPA also obtained and reviewed a copy of Officer [REDACTED] November 14, 2018 deposition in *Lashundia Key et al. v. [REDACTED] et. al.*, Case No. [REDACTED] (Circuit Court of Cook County, Illinois), the civil lawsuit arising from this incident. Att. 163. Except as noted below, Officer [REDACTED] related essentially the same account of the incident during his deposition that he provided to COPA.

to Beat [REDACTED] He was driving an unmarked Ford Explorer, and his partner, Officer [REDACTED] was the passenger. They were on routine patrol near 66th and Rhodes when a dispatcher instructed them to respond to a 911 call of shots fired at [REDACTED] Officer [REDACTED] was familiar with the apartment building and estimated that he had previously responded there approximately 50-100 times. Officer [REDACTED] did not believe that he had any prior encounters with [REDACTED]

When Officer [REDACTED] arrived at [REDACTED] he observed approximately three or four people standing on the sidewalk in front of the building. One of the individuals told Officer [REDACTED] the shots were fired from a gray Pontiac, then changed the description to a different vehicle. The officers returned to their vehicle, and Officer [REDACTED] spent approximately two to three minutes driving around the area looking for the car. At that point, they determined the information was not credible. Officer [REDACTED] drove back to [REDACTED] On the way, the officers received a PDT message informing them that a 911 caller reported “somebody dropped [an] item next to the yellow building.”<sup>4</sup> Officer [REDACTED] believed the caller was referring to [REDACTED] which is a yellow building. The officers were not provided the individual’s description or any information about the discarded item.

Officer [REDACTED] parked in front of [REDACTED] and walked westbound through the tunnel-like entrance into the building’s courtyard. Officer [REDACTED] was behind him, but Officer [REDACTED] did not know if his partner followed him into the courtyard. When Officer [REDACTED] entered the courtyard, he saw [REDACTED] less than ten feet away from him, walking toward him. Officer [REDACTED] noticed [REDACTED] because he was the only other person in the courtyard. According to Officer [REDACTED] when [REDACTED] saw him, “he gave me a surprised look, and, uh, he grabbed onto his right...side of his waistband.”<sup>5</sup> [REDACTED] turned around and ran in the opposite direction, and Officer [REDACTED] told him to “stop, come back.”<sup>6</sup> [REDACTED] continued to flee; at that point, Officer [REDACTED] did not see a gun in his hands. However, due to Officer [REDACTED] experience as a tactical officer, the fact that he was responding to a report of shots fired, and [REDACTED] reaction to seeing him, he believed that [REDACTED] was armed.

Officer [REDACTED] gave chase and pursued [REDACTED] up the stairs to the second floor of the building. Officer [REDACTED] stated that he did not have time to radio that he was in a foot pursuit, call for backup, or signal his partner. When Officer [REDACTED] reached the second floor, he observed [REDACTED] open an apartment door and run inside. The door closed behind [REDACTED] and Officer [REDACTED] opened it and followed him into the apartment. Officer [REDACTED] was less than ten feet behind [REDACTED] as he pursued him through the apartment, toward the back door. Officer [REDACTED] ran past multiple individuals inside the apartment, but he did not say anything to them, and they did not say anything to him. When [REDACTED] reached the back door, Officer [REDACTED] saw him pull a handgun out of his waistband with his right hand. Officer [REDACTED] drew his own weapon and followed [REDACTED] out the back door, onto the second-floor porch. Officer [REDACTED] could not recall if he gave [REDACTED] any verbal commands to drop the gun. When [REDACTED] reached the stairs at the end of the porch, he turned to his right, raised his right arm, and pointed his gun in the officer’s direction. Officer [REDACTED] discharged his weapon at [REDACTED] firing from a distance of less than ten feet. At the time, Officer [REDACTED] believed he fired three or four times; he subsequently learned he fired

<sup>4</sup> Att. 77, pg. 16, lines 12-13.

<sup>5</sup> Att. 77, pg. 21, lines 5-7.

<sup>6</sup> Att. 77, pg. 23, line 16.

seven times. Officer [REDACTED] stopped shooting when [REDACTED] ran down the stairs, and Officer [REDACTED] believed [REDACTED] was no longer a threat.<sup>7</sup>

Officer [REDACTED] saw [REDACTED] collapse at the bottom of the stairs and realized he was shot. He used his radio to call out “shots fired by the police,” requested an ambulance, and let his partner know he was in the back of the building. [REDACTED] was unable to speak, and Officer [REDACTED] put on latex gloves and attempted to render medical aid. He was not sure how long it took for Officer [REDACTED] to locate him but stated that it “felt like it was a long time.”<sup>8</sup> When Officer [REDACTED] arrived at the scene, Officer [REDACTED] told him where [REDACTED] weapon was and instructed him not to touch it. Officer [REDACTED] remained at the bottom of the stairs with [REDACTED] for approximately five minutes, until medical personnel arrived.

#### Officer [REDACTED]

In a statement to COPA on December 7, 2017, Officer [REDACTED] # [REDACTED] stated that on the date and time of the incident, he and his partner, Officer [REDACTED] were dispatched to the [REDACTED] block of [REDACTED] to respond to multiple 911 calls reporting shots fired. The officers exited their vehicle at [REDACTED] where Officer [REDACTED] saw a group of people standing on the sidewalk in front of the building. They asked the group about the reports of shots fired, and one of the individuals relayed that a vehicle fled the scene immediately after the gunfire. He initially described the vehicle as a Pontiac, but later said it was a gray Impala. Officer [REDACTED] found these changing descriptions “kind of suspicious,”<sup>10</sup> but he rode with Officer [REDACTED] around the area looking for the vehicle.

While they toured the area, the officers received additional information via PDT indicating that a 911 caller reported that someone had stashed something, possibly a pistol, on the side of the yellow brick building at [REDACTED]. They returned to that location, exited their vehicle, and walked past the same group of people standing on the sidewalk. Both officers walked into the tunnel that leads into the building’s courtyard, but only Officer [REDACTED] proceeded into the courtyard. Officer [REDACTED] decided to stop in the tunnel as a safety precaution; he was concerned, based on the information they received via PDT, that the people on the sidewalk were “gonna either go pick...the item back up, or they’re gonna come ambush [us].”<sup>11</sup> One particular individual in the group drew Officer [REDACTED] attention by repeatedly walking away and coming back. As Officer [REDACTED] stood in the entrance and watched the individuals on the sidewalk, he faced east, toward [REDACTED]. Officer [REDACTED] could not see Officer [REDACTED] who continued westbound into the courtyard, but Officer [REDACTED] believed that Officer [REDACTED] was probably searching for the weapon stashed on the side of the building. The officers did not communicate their plans to one another, and Officer [REDACTED] did not tell his partner that he stopped to observe people on the sidewalk.

<sup>7</sup> During Officer [REDACTED] deposition, he clarified that he continued firing as [REDACTED] ran down the first flight of stairs, still pointing his gun in the officer’s direction. Officer [REDACTED] stopped shooting when [REDACTED] reached the first-floor landing, and Officer [REDACTED] could no longer see [REDACTED] gun.

<sup>8</sup> Att. 77, pg. 38, lines 4-5.

<sup>9</sup> Atts. 49, 55, 86.

<sup>10</sup> Att. 86, pg. 16, line 23.

<sup>11</sup> Att. 86, pg. 19, lines 10-11.

Officer [REDACTED] did not see Officer [REDACTED] approach [REDACTED]. [REDACTED] did not hear Officer [REDACTED] say anything to [REDACTED] and was not aware that his partner was engaged in a foot pursuit. Officer [REDACTED] was alerted that something was wrong when he heard several gunshots in rapid succession. At that point, Officer [REDACTED] realized he needed to find his partner and identify the location of the gunshots, which sounded like they came from the south. Officer [REDACTED] went into the courtyard and saw multiple people pointing to an open apartment door on the second floor, saying, "They're shooting. They're shooting. Somebody just got shot."<sup>12</sup> Officer [REDACTED] heard his partner say "shots fired by the police" over his radio, but he could not recall if Officer [REDACTED] provided any information about his location. Officer [REDACTED] proceeded up the stairs and into the open apartment door, where he encountered a black female in her mid-twenties who stated someone was shot. Officer [REDACTED] went out the apartment's back door onto the porch, where he saw his partner and [REDACTED] on the ground floor. [REDACTED] was lying on his back, near the base of the stairs, facing up. Officer [REDACTED] realized [REDACTED] was the individual who was shot, and he radioed for an ambulance.

Officer [REDACTED] pointed out a black semi-automatic pistol on one of the porch stairs and told Officer [REDACTED] to keep the crowd that was gathering on the second floor of the porch away from the weapon. The angry crowd shouted profanities at Officer [REDACTED] and tried to come down the stairs. At least one individual threatened him, stating, "Oh, you're gonna get what's coming. I got something for you guys."<sup>13</sup> Officer [REDACTED] unholstered his weapon and pointed it at the ground, both to protect himself and to keep people from taking the weapon on the stairs. Several minutes later, additional units arrived and secured the scene, at which point Officer [REDACTED] went into the alley behind [REDACTED] and waited to speak with the On-Call Incident Commander (OCIC).

#### Officer [REDACTED]

In a statement to COPA on January 4, 2018, Officer [REDACTED] # [REDACTED] stated that on November 29, 2017, he was the senior member of Officers [REDACTED] and [REDACTED] tactical team. Prior to the incident, Officer [REDACTED] recalled seeing a PDT message reporting shots fired and "a guy placing something on the side of the building"<sup>15</sup> near the location where the officer-involved shooting occurred. Shortly thereafter, Officer [REDACTED] heard a radio call of either a 10-1<sup>16</sup> at [REDACTED] or a request for more units at that location. Officer [REDACTED] and his partner, Officer [REDACTED] responded to the location and arrived at the building approximately three minutes later. When they reached the rear of the building, Officer [REDACTED] saw Officer [REDACTED] and a probationary police officer (PPO) standing next to [REDACTED] who was lying on the ground with a tourniquet on his arm. Officer [REDACTED] and a field training officer (FTO) were guarding a weapon on the porch stairs, as a crowd of people gathered on top of the porch. The crowd yelled "fuck the police, fuck 12, and all that other stuff"<sup>17</sup> at the officers.

<sup>12</sup> Att. 86, pg. 25, lines 21-22.

<sup>13</sup> Att. 86, pg. 34, lines 22-23.

<sup>14</sup> Atts. 91, 158.

<sup>15</sup> Att. 158, pg. 29, lines 22-23.

<sup>16</sup> A 10-1 is a radio call indicating an officer needs immediate emergency assistance.

<sup>17</sup> Att. 91 at 30:45.

Officer [REDACTED] who is a certified EMT, observed blood on [REDACTED] arm and wrist. He made sure the tourniquet was properly applied, and he opened [REDACTED] shirt to check for other injuries, at which point he saw a gunshot wound to [REDACTED] back. [REDACTED] was conscious and trying to move, but Officer [REDACTED] could not recall if he said anything.

As the crowd of civilians grew, and additional police units arrived, Officer [REDACTED] decided to remove Officer [REDACTED] from the scene. Officer [REDACTED] put Officer [REDACTED] into the back of his squad car, which was parked in the alley behind [REDACTED] and he stayed with Officer [REDACTED] for several hours. Officer [REDACTED] would not allow Officer [REDACTED] to tell him what happened, and he advised Officer [REDACTED] not to talk about it with anyone, until their commander and the detectives arrived. After Officer [REDACTED] was released from the scene, an evidence technician took photographs of him, to document [REDACTED] blood on his clothing. Officer [REDACTED] did not sustain any injuries in the incident.

### Additional Police Witnesses

In a statement to COPA on January 22, 2018, Officer [REDACTED] # [REDACTED] stated that on the date and time of the incident, she responded to [REDACTED] with her partner, Officer [REDACTED]. When Officer [REDACTED] arrived at the scene, she saw a weapon on the porch stairs and immediately went up the stairs to assist with crowd control. She did not speak to Officer [REDACTED] or have any interaction with [REDACTED]. She did not have any additional information relevant to this investigation.

In a statement to COPA on January 22, 2018, Officer [REDACTED] # [REDACTED] stated that on the date and time of the incident, she and her partner, FTO [REDACTED] responded to [REDACTED] for a 10-1 radio call at that location. When they arrived at the scene, [REDACTED] was in an ambulance. Officer [REDACTED] entered the ambulance and accompanied [REDACTED] to Stroger Hospital. [REDACTED] was conscious and attempted to talk, but he had a breathing mask on and she could not understand him. She did not hear him make any statements about what happened.

### b. Civilian Witness Interviews

[REDACTED]

In a statement to COPA on December 15, 2017, [REDACTED] ([REDACTED]<sup>20</sup>) stated that she resides at [REDACTED] Apt. 32, with her children and three of her siblings. On the date and time of the incident, she was at her apartment with [REDACTED] whom she knew as [REDACTED] as well as her sister [REDACTED] ([REDACTED] and [REDACTED] friends [REDACTED] and [REDACTED]).<sup>21</sup> [REDACTED] stated that [REDACTED] spent the previous night at her apartment and was still there the following afternoon.

<sup>18</sup> Atts. 97, 154.

<sup>19</sup> Atts. 97, 145, 155. At the time of the incident, Officer [REDACTED] was a PPO.

<sup>20</sup> Atts. 74, 94. COPA also obtained and reviewed a copy of [REDACTED] October 18, 2018 deposition in *Key v. [REDACTED]* Att. 152. During the deposition, [REDACTED] related essentially the same account of the incident that she provided to COPA.

<sup>21</sup> COPA subsequently identified [REDACTED] as [REDACTED] and [REDACTED] as [REDACTED]. COPA made numerous attempts to schedule interviews with both witnesses; however, these efforts were unsuccessful. Atts. 68, 85, 124-26.

He briefly left the apartment two or three times during the day, though [REDACTED] did not know why. [REDACTED] did not hear gunshots or noises outside prior to the incident.<sup>22</sup>

That afternoon, [REDACTED] stated that she and [REDACTED] were getting ready to go to the store. As they put on their coats, [REDACTED] left the apartment by himself, stating that he would be right back. [REDACTED] did not know the reason he left, and she did not hear yelling or commotion outside while he was gone. Less than a minute later, [REDACTED] was standing by the front door, about to leave, when [REDACTED] returned to the apartment. [REDACTED] unlocked and opened the door and [REDACTED] ran inside, yelling, "12 run, 12 run!"<sup>23</sup> [REDACTED] did not see anything, including a gun or a cell phone, in [REDACTED] hands. [REDACTED] ran straight through the apartment, toward the back door. At the same time, [REDACTED] ran toward the hall closet, and [REDACTED] jumped out of his chair in the front room and shut and locked the front door. Almost immediately, Officer [REDACTED] "bumped the door open,"<sup>24</sup> breaking the lock, and entered the apartment. His gun was already drawn, and he pointed it at [REDACTED] and the others. He asked where [REDACTED] went, but no one answered. Officer [REDACTED] noticed the sun pouring inside as [REDACTED] opened the back door. Officer [REDACTED] ran into the kitchen, toward the back door, and [REDACTED] followed in his direction because her baby was sleeping in the back bedroom. At the same time, [REDACTED] and [REDACTED] ran out the front door with their hands in the air.

According to [REDACTED] as Officer [REDACTED] ran out the back door onto the porch, he started shooting at [REDACTED]<sup>25</sup> [REDACTED] heard six gunshots and saw [REDACTED] lying at the bottom of the stairs. Officer [REDACTED] did not give [REDACTED] any verbal commands prior to firing; after he entered the apartment and asked where [REDACTED] went, "[I]t wasn't no freeze, stop, nothing; you just heard shots literally. Once he ran from here to outside, all you heard was shots."<sup>26</sup> After the shooting stopped, [REDACTED] ran onto the back porch, screaming and begging Officer [REDACTED] to let her help [REDACTED] because the officer was not doing anything to stop [REDACTED] bleeding. Officer [REDACTED] did not answer; he pointed his weapon at [REDACTED] when she tried to go down the stairs. Approximately three to five minutes later, Officer [REDACTED] partner ran through the apartment and onto the back porch. He radioed for an ambulance, instructed the gathering crowd to get back, and rendered medical aid to [REDACTED]. The ambulance arrived approximately ten minutes later.

[REDACTED] stated that she did not see [REDACTED] with a weapon in his hands prior to the shooting, and she did not see a weapon on the stairs after the shooting. She did not know [REDACTED] was armed until after he was shot, when she heard him tell an officer his gun was on the porch. She later saw a photo of the recovered gun on the news, and she acknowledged that she had probably seen [REDACTED] with a similar looking gun "in the videos."<sup>27</sup>

<sup>22</sup> [REDACTED] did not learn about the earlier reports of shots fired until after incident. [REDACTED] stated that she believed the shots were fired at the apartment building at [REDACTED] and [REDACTED] that is identical to [REDACTED] and the police mistakenly responded to [REDACTED]

<sup>23</sup> Att. 94, pg. 8, lines 23-24. The number 12 is a reference to the police. Att. 94, pg. 27, lines 17-19.

<sup>24</sup> Att. 94, pg. 11, line 7.

<sup>25</sup> During [REDACTED] deposition, she clarified that she could see Officer [REDACTED] but not [REDACTED] at the time the officer discharged his weapon. She also acknowledged she did not see [REDACTED] open the back door or run onto the porch. Att. 152.

<sup>26</sup> Att. 94, pg. 12, lines 10-13.

<sup>27</sup> Att. 94, pg. 20, line 20.

[REDACTED]

In a statement to COPA on December 15, 2017, [REDACTED] (¶ 28, 29) stated that at the time of the incident, [REDACTED] was "something like"<sup>30</sup> her boyfriend. The week before the shooting he spent every night at [REDACTED] Apt. 32, the apartment [REDACTED] shared with her mother and siblings. On the afternoon of November 29, 2017, [REDACTED] had just returned home from taking her niece to school. [REDACTED] and his friends, whom [REDACTED] knew only as [REDACTED] and [REDACTED] were in the front room playing a video game. As [REDACTED] prepared to go to the store with her sister [REDACTED] left the apartment to see who was outside. [REDACTED] did not hear yelling or loud noises outside after [REDACTED] left. Approximately one to two minutes later, [REDACTED] heard knocking at the front door and [REDACTED] told them to let him inside. When they unlocked and opened the door, [REDACTED] ran through the apartment toward the back door, saying "12, 12, runners."<sup>31</sup> [REDACTED] did not see anything, including a gun, in his hands. She did not know if [REDACTED] was armed at the time of the incident, but she acknowledged he owned a gun.<sup>32</sup>

According to [REDACTED] no one closed the front door behind [REDACTED] and it was still a couple of inches open when Officer [REDACTED] ran into the apartment approximately one minute later. Officer [REDACTED] weapon was already drawn, and he pointed it at [REDACTED] and the others, "like he was aiming it...he pointed the gun at all of us."<sup>33</sup> In response, [REDACTED] put her hands in the air. Officer [REDACTED] asked which way [REDACTED] ran, and the group replied they did not know. The officer then ran through the apartment and out the back door. [REDACTED] stated that she did not know why Officer [REDACTED] chased [REDACTED] or why [REDACTED] ran from Officer [REDACTED]

After Officer [REDACTED] exited the apartment, [REDACTED] heard six or seven gunshots. [REDACTED] ran toward the back door, while [REDACTED] and [REDACTED] ran out the front door. When [REDACTED] came back inside, [REDACTED] told her, "They shot [REDACTED]"<sup>34</sup> The sisters went onto the back porch and saw Officer [REDACTED] point his weapon at [REDACTED] who was lying on the ground shot. [REDACTED] asked Officer [REDACTED] if she could come down the stairs and help [REDACTED] but Officer [REDACTED] pointed his weapon at her and told her not to move. [REDACTED] was certain nothing, including a gun, was on the porch stairs. She reported it took approximately 15-20 minutes for an ambulance to arrive.

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<sup>28</sup> Atts. 74, 95. [REDACTED] was a 17-year-old juvenile at the time of the incident and on the date that she gave a statement to COPA. As a result, COPA investigators obtained the consent of [REDACTED] mother, [REDACTED] prior to taking her statement, and [REDACTED] was present throughout the interview. Atts. 71, 95, pg. 2, lines 13-24 and pg. 3, lines 1-13.

<sup>29</sup> COPA obtained and reviewed a copy of [REDACTED] October 23, 2018 deposition in *Key v. [REDACTED]* Att. 151. During the deposition, [REDACTED] related essentially the same account of the incident she provided to COPA.

<sup>30</sup> Att. 95, pg. 5, line 20.

<sup>31</sup> Att. 95, pg. 8, line 18.

<sup>32</sup> Although [REDACTED] deposition testimony contains a similar account of the actual incident, it differs from her COPA statement on the question of whether [REDACTED] owned a gun. During her deposition, [REDACTED] stated that she did not know [REDACTED] to own a gun. She explained that when she told COPA investigators otherwise, she was referring to a gun in [REDACTED] music videos.

<sup>33</sup> Att. 95, pg. 10, lines 9-10.

<sup>34</sup> Att. 95, pg. 5, line 6.

### Additional Civilian Witnesses

COPA conducted a **Canvass**<sup>35</sup> of the area near the shooting scene on December 8, 2017.<sup>36</sup> In addition to [REDACTED] and [REDACTED] investigators spoke to multiple individuals who reported hearing between five and seven gunshots. Mrs. [REDACTED] of [REDACTED] Apt. 33, saw an officer point a weapon at a person she knew as "Cornbread" (believed to be [REDACTED]) after which she heard five gunshots and an unknown female screaming. She did not see who fired the shots. No one else reported seeing Officer [REDACTED] initial encounter with [REDACTED] the foot pursuit, or the shooting. COPA investigators also spoke to Oliver Tookes, the manager of [REDACTED] who stated that he gave CPD the "VCR" to which the building's security cameras transmitted. He did not know if the cameras were working at the time of the incident.

#### c. Digital Evidence

COPA obtained and reviewed the **Body Worn Camera (BWC) videos of Officers [REDACTED] and [REDACTED]** relevant to this incident. Both officers turned on their BWCs at approximately 2:15 pm,<sup>38</sup> on November 29, 2017. The videos show the officers driving to [REDACTED] where they arrive approximately three minutes later. As they exit their vehicle and approach the building, Officer [REDACTED] asks a person standing on the sidewalk, "Who's shooting, man?"<sup>39</sup> The individual responds that the shots came from a gray Pontiac Grand Prix, with tinted windows, driving down [REDACTED]. Upon further questioning, he says it is also possible the vehicle was a Chevy Malibu. As Officer [REDACTED] talks to the individual, Officer [REDACTED] walks into the central courtyard of [REDACTED] where he appears to look for something on the sides of the building. The officers get back in their vehicle and drive around the area, looking for the vehicle the individual described. At 2:21 pm, both officers turn off their BWCs, while in their vehicle.

At 2:24:34 pm, Officer [REDACTED] BWC captures him inside the courtyard at [REDACTED] [REDACTED] running up the stairs to the second floor of the building. As he emerges onto the front second-floor porch, the camera captures a male, now identified as [REDACTED] standing in front of a closed apartment door. Officer [REDACTED] runs toward [REDACTED] as the apartment door opens, and [REDACTED] goes inside. Officer [REDACTED] pushes the door open and follows [REDACTED] into the apartment. As Officer [REDACTED] enters, the camera captures a black male, now identified as [REDACTED] [REDACTED] sitting in a chair in the front room, holding a controller. Two black females, now identified as [REDACTED] and [REDACTED] are standing in the doorway of what appears to be a closet. Officer [REDACTED] runs through the apartment into the kitchen, where [REDACTED] becomes fully visible for the first time. [REDACTED] is wearing a black jacket, blue jeans, and boots. As [REDACTED] opens the back door with his left hand, he uses his right hand to retrieve what appears to be a black handgun from his right side.

<sup>35</sup> Atts. 63, 64, 67.

<sup>36</sup> An earlier canvass was attempted on December 5, 2017, but it was delayed due to safety concerns.

<sup>37</sup> Att. 46. COPA also obtained and reviewed 127 BWC videos from officers who responded to [REDACTED] following the incident, but none of them contained relevant footage of the shooting or the events preceding it. Atts. 48, 80, 106-107.

<sup>38</sup> The timestamp on both officers' BWCs is set to Universal Coordinated Time (UTC), which is six hours ahead of Central Standard Time (CST). For the purposes of this report, all times have been adjusted to CST.

<sup>39</sup> Att. 46, Officer [REDACTED] BWC at 2:18:33 pm.

At 2:24:45 pm, [REDACTED] exits the back door and runs across the rear second-floor porch, holding the weapon and what appears to be a cell phone, with a red case, in his right hand. At the same time, Officer [REDACTED] steps onto the porch and a shadow on the wall shows him drawing his weapon. At 2:24:47 pm, [REDACTED] turns to his right and begins running down the stairs. As he does, he wraps his right arm around the banister, and the muzzle of the gun in his right hand appears to be pointed in Officer [REDACTED] direction. Officer [REDACTED] points his weapon at [REDACTED] and begins running across the porch, toward the stairs.<sup>40</sup> [REDACTED] runs out of the frame of the camera as he descends the stairs. At 2:24:50 pm, Officer [REDACTED] reaches the top of the staircase and lowers his weapon. As he descends the stairs, the camera captures [REDACTED] lying on his back at the bottom of the stairs, with both of his legs sprawled upwards on the bottom steps. It is at this point, Officer [REDACTED] activates his BWC<sup>41</sup> and uses his radio to request an ambulance and additional units. [REDACTED] looks at Officer [REDACTED] and puts both of his hands in the air. His right hand and wrist appear to be covered in blood.

[REDACTED] who is now standing on the second floor of the porch, asks Officer [REDACTED] if she can come down to help [REDACTED]. Officer [REDACTED] is on his radio, reporting, "Shots fired by police," and does not respond to Lewis. At approximately the same time, Officer [REDACTED] BWC shows him running into the courtyard of [REDACTED] up the stairs, through the apartment, and out the back door. When Officer [REDACTED] arrives at the scene, Officer [REDACTED] points to an object on the stairs and tells him, "Secure that weapon."<sup>42</sup> Officer [REDACTED] radios in the recovered weapon and, approximately 90 seconds after the shooting, Officer [REDACTED] camera captures the first close-up shot of the black handgun on the stairs.<sup>43</sup>

After Officer [REDACTED] descends the stairs, he tells [REDACTED] "Don't move, brother." [REDACTED] responds, "I can't breathe."<sup>44</sup> Officer [REDACTED] puts on latex gloves and begins to render medical aid to [REDACTED]. At the same time, a crowd of civilians start gathering on the second-floor porch, screaming and yelling. Officer [REDACTED] tells Officer [REDACTED] to get his weapon out. Officer [REDACTED] draws his weapon and stands guard over the gun on the stairs, instructing the civilians to stay back. One male civilian, standing on the porch, appears to tell the officers, "I've got something for you, too."<sup>45</sup> Additional officers arrive at the scene and one of them places a tourniquet on [REDACTED] right arm. EMS personnel arrive at 2:32:11 pm, and Officer [REDACTED] tells them [REDACTED] is shot in the back and arm. Officer [REDACTED] takes hold of Officer [REDACTED] and leads him away from the scene.

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<sup>40</sup> There is no audio of the shooting, so it cannot be determined exactly when Officer [REDACTED] first discharged his weapon. Officer [REDACTED] BWC video suggests he may have fired all seven shots between 2:24:47 pm and 2:24:50 pm.

<sup>41</sup> At the time an officer activates a BWC, the previous 30 seconds of video is stored without audio. Officer [REDACTED] told COPA investigators he did not remember to activate his BWC until after the shooting, as the camera was new equipment assigned to him approximately two weeks prior to the incident.

<sup>42</sup> Att. 46, Officer [REDACTED] BWC at 2:25:44 pm.

<sup>43</sup> Att. 46, Officer [REDACTED] BWC at 2:26:10 pm. Although this is the first close-up view of the handgun, Officer [REDACTED] BWC video captures partial, more distant images of the weapon on the stairs beginning at 2:25:07 pm, approximately 15-20 seconds after the shooting.

<sup>44</sup> Att. 46, Officer [REDACTED] BWC at 2:26:10 pm.

<sup>45</sup> Att. 46, Officer [REDACTED] BWC at 2:28:26 pm.

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LOG #1087659 / U #17-24



Censhot from Officer [REDACTED] BWC showing [REDACTED] holding what appears to be a right hand as he exits the apartment's back door.





Figure 3. Screenshot from Officer [REDACTED] BWC as [REDACTED] grabs the banister with his right hand, holding what appears to be the cell phone and weapon in the same hand (based on the items in his hand in Figures 1 and 2).



Figure 4. Screenshot from Officer [REDACTED] BWC of the black Model 43 pistol recovered from the stairs, captured approximately 90 seconds after the shooting.

COPA requested the **In-Car Camera (ICC) video for Beat [REDACTED]**; however, the vehicle was not equipped with an ICC on the date of the incident. COPA also obtained and reviewed 84 ICC videos from vehicles that responded to [REDACTED] following the incident; none of them contained relevant footage of the shooting or preceding events.<sup>47</sup>

COPA obtained the video footage from **Police Observation Device (POD) # [REDACTED] (OEMC)/Operation Virtual Shield**,<sup>48</sup> which is located at [REDACTED]. The POD faced the northeast corner of [REDACTED] Street and [REDACTED] at the time of the incident and did not capture any relevant video.

At the time of the incident, there were **three security cameras on the exterior of [REDACTED]**<sup>49</sup> one of which was located on the second-floor porch where the incident occurred. Detectives recovered the DVR unit the cameras transmitted to and submitted it to the Chicago Regional Computer Forensics Laboratory (RCFL) for forensic examination. The RCFL examiner was unable to locate any video from the date of the incident.<sup>50</sup>

The **911 Calls received by OEMC**<sup>51</sup> include the following relevant communications:

- 2:13:22 pm An anonymous caller who is walking near [REDACTED] and [REDACTED] reports hearing 3-4 gunshots.
- 2:13:35pm An anonymous caller reports hearing two to three gunshots “on the side” of [REDACTED] and King. The caller asks the dispatcher to “tell the officers when they come over here, you know that yellow building across the street? They be on the side. The other day when they was shooting I saw somebody throw something over there, cause I don’t know if they be keeping guns over there or what... You know that big yellow building on [REDACTED] I live right across the street from that building...”<sup>52</sup>

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<sup>46</sup> Atts. 80, 141.

<sup>47</sup> Atts. 106-107.

<sup>48</sup> Atts. 45.

<sup>49</sup> Att. 20, pg. 1, Att. 110, pg. 16.

<sup>50</sup> Att. 128. The RCFL examiner found that the most recent video saved on the DVR unit was from March 23, 2015.

<sup>51</sup> Att. 65. A COPA investigator spoke to five of the 911 callers following the incident. None of the callers reported seeing the individual(s) who fired the original gunshots, the initial encounter between Officer [REDACTED] and [REDACTED] or the officer-involved shooting. One caller reported she saw [REDACTED] lying on the ground and a police officer standing over him after he was shot, and another caller observed the police wheeling [REDACTED] into an ambulance following the shooting. Att. 66.

<sup>52</sup> When a COPA investigator followed-up with the caller (now identified as [REDACTED]) she stated she was inside her apartment at 6201 [REDACTED] when she heard two gunshots, then three more several seconds later. She looked out her front window and saw a young black male in a gray hoodie leaning out of a window in the big yellow building across the street from her apartment. The male dropped several items that looked like guns onto the side of the building facing [REDACTED] saw three or four other males walking on [REDACTED] whom she believed might have picked up the items, but she was not sure because she withdrew from her window in fear. Att. 66. Based on [REDACTED] address and the description she provided to COPA, it is likely that the yellow building she referenced in her 911 call was [REDACTED] which is directly across the street from her apartment. It is similar in appearance, layout, and construction to [REDACTED] Att. 142. It does not appear that Officers [REDACTED] and [REDACTED] received this information or [REDACTED] description of the male who dropped the items.

- 2:13:54 pm An anonymous caller reports hearing five gunshots on the [REDACTED] block of [REDACTED]  
[REDACTED]
- 2:25:07 pm An anonymous caller who lives on the [REDACTED] block of [REDACTED] states he just heard five gunshots from his bedroom window.
- 2:25:42 pm An anonymous caller who lives at [REDACTED] and [REDACTED] reports hearing "heavy gunfire coming out these—and from the back and the front...I heard like three [gunshots] earlier and three just now, from the back." She states the earlier gunshots occurred approximately 20 minutes ago.
- 2:26:08 pm An anonymous caller states she just heard five gunshots at [REDACTED] and [REDACTED]
- 2:26:48 pm An anonymous woman calls 911 screaming unintelligibly. She then requests an ambulance at [REDACTED] and [REDACTED]
- 2:36:59 pm An anonymous caller requests an ambulance at [REDACTED] and [REDACTED] stating, "Somebody's shot. I need the ambulance. [REDACTED] and [REDACTED] In the tunnel...It's a million polices, but no ambulance. Where's the ambulance?"

The OEMC Event Queries<sup>53</sup> and Zone 7 Radio Transmissions<sup>54</sup> document the following relevant and material communications:

- 2:14:48 pm Beat [REDACTED] is dispatched to [REDACTED] to respond to a 911 call of shots fired. The dispatcher states a second caller heard three to four gunshots at [REDACTED] and [REDACTED]. Officer [REDACTED] acknowledges the assignment over the radio and via PDT.
- 2:16:18 pm Officer [REDACTED] sends a PDT message indicating he and Officer [REDACTED] arrived at the scene.
- 2:16:41 pm The dispatcher reports another 911 call of shots fired at [REDACTED] stating the caller "heard six shots fired; there's a big yellow building on [REDACTED]. They threw something on the side of the building. No further info." Officer [REDACTED] acknowledges the report via PDT.
- 2:24:55 pm Officer [REDACTED] "[Unintelligible]. Shots fired. Shots fired, [REDACTED] in the back. [REDACTED] in the back."
- 2:25:18 pm Officer [REDACTED] "Get me, get me, uh, an ambulance, get me an ambulance in the back. [REDACTED]"
- 2:25:36 pm The dispatcher asks how many people are shot, and Officer [REDACTED] responds, "One person shot. Shots fired by police. Shots fired by police." He then requests an ambulance at [REDACTED] in the back.

<sup>53</sup> Atts. 6-8.

<sup>54</sup> The OEMC radio transmissions quoted herein were transcribed by a COPA investigator. They do not include every transmission made within this time frame. For the full content, see Att. 65.

- 2:26:23 pm Officer [REDACTED] "Squad, be advised, we've got a weapon recovered over here."
- 2:26:52 pm Officer [REDACTED] "Squad get me some more cars over here, cars over here...Back of the building squad, get me some more cars over here, ASAP."
- 2:27:11 pm Dispatcher: "Alright 10-1 units, 10-1. 10-1. Units I'm issuing a 10-1, [REDACTED]  
[REDACTED] We got shots fired by the police. We got a 10-1, 10-1. [REDACTED] District."
- 2:28:42 pm The dispatcher asks if any officers are injured, and an unknown officer responds, "Negative. [Unintelligible.] Everything so far so good—no officers, just one person down. Need the ambulance over here."

**Evidence Technician (ET) Photographs<sup>55</sup> and Crime Scene Video<sup>56</sup>** depict the shooting scene from various angles. They include images of the expended shells and fired bullets, the Glock Model 43 pistol recovered from the rear first-floor steps, and a broken cell phone and red case (both with suspected bullet damage) recovered from the rear first-floor landing. The photographs also show suspected bullet damage to the wooden balusters, handrails, and support beams on the rear porch and stairwell. Additionally, the photographs capture suspected blood stains on the first-floor landing handrail, the bottom first-floor step, and the ground in the rear courtyard. At Stroger Hospital, an ET took photographs of [REDACTED] and his clothing. At the Area Central Detective Division, an ET photographed Officers [REDACTED] and [REDACTED]

#### d. Physical Evidence

According to the **Inventory Sheets<sup>57</sup> and Crime Scene Processing Reports<sup>58</sup>**, items recovered from the shooting scene include seven Winchester (Win) 9mm Luger +P fired cartridge cases and two fired bullets, a black Glock Model 43, 9mm semi-automatic pistol (Serial # [REDACTED]) recovered from the rear first-floor steps, and a broken LG cell phone with a red case recovered from the rear first-floor landing. Additionally, one Winchester (WMA 16) 9mm Luger fired cartridge case and one Federal (FC) 9mm Luger fired cartridge case were located in the alley at [REDACTED]. At Stroger Hospital, an evidence technician recovered [REDACTED] clothing and personal property, as well as a fired bullet that doctors removed from [REDACTED] during surgery. The following morning, the M.E. recovered a second fired bullet from [REDACTED] body.<sup>59</sup>

The inventory sheets (and related firearms worksheets) also document the processing of Officer [REDACTED] Glock Model 17 pistol and the Glock Model 43 pistol recovered from the scene. Officer [REDACTED] weapon, which had a 17-round capacity magazine, was found to have ten live rounds of ammunition in the magazine and one live round in the chamber of the weapon. The Glock Model 43 pistol contained a six-round capacity magazine, fully loaded, with ammunition from unknown manufacturer(s). The weapon did not have a round in the chamber.

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<sup>55</sup> Atts. 58-61.

<sup>56</sup> Att. 146.

<sup>57</sup> Atts. 20, 138.

<sup>58</sup> Atts. 35-36, 39, 79, 119, 148.

<sup>59</sup> According to the M.E., [REDACTED] suffered this gunshot wound in December 2015, when he and another individual were shot by two unknown males while walking on the [REDACTED] block of [REDACTED] Atts. 115, 118, 137.

**Illinois State Police (ISP) Forensic Science Laboratory Reports # [REDACTED] and [REDACTED]<sup>60</sup>** document the examination of recovered firearms evidence in this investigation. An analysis of the reports resulted in the following relevant facts.

A Glock Model 43, 9mm semi-automatic pistol was submitted with a magazine and six live (unfired) cartridges. An ISP forensic scientist test fired the weapon and determined it to be operable as received. A test-fired cartridge was entered into the IBIS<sup>61</sup> database; however, no identification was made to any other cartridges in the database. The examination of the Glock Model 43 pistol, magazine, and six cartridges did not reveal any latent fingerprint impressions suitable for comparison. The examination of Officer [REDACTED] Glock Model 17, 9mm semi-automatic pistol determined it to be operable as received and was test fired.

Two Winchester 9mm Luger +P fired cartridge cases recovered from the ground in the rear courtyard and five Winchester 9mm Luger +P fired cartridge cases recovered from the rear second-floor porch were fired by Officer [REDACTED] weapon.

One fired bullet recovered from the ground in the rear courtyard, one fired bullet fragment recovered from the rear second-floor porch, and one fired bullet removed from [REDACTED] during surgery at Stroger Hospital, were fired from Officer [REDACTED] weapon. One fired bullet recovered from [REDACTED] body by the medical examiner was not fired from Officer [REDACTED] weapon. It could not be identified or eliminated as fired from the Glock Model 43 pistol.<sup>62</sup>

One Federal (FC) 9mm Luger fired cartridge case recovered from the alley, at [REDACTED] was identified as fired by the Glock Model 43 pistol. One Winchester (WMA 16) 9mm Luger fired cartridge case recovered from the alley, at [REDACTED] was not fired from either Officer [REDACTED] weapon or the Glock Model 43 pistol. The examination of the Federal 9mm Luger and the Winchester 9mm Luger fired cartridge cases did not reveal any latent fingerprint impressions suitable for comparison.

The **Chicago Fire Department (CFD) Ambulance Report<sup>63</sup>** states that paramedics from Ambulance 38 were dispatched to [REDACTED] at 2:27:05 pm, and on their way at 2:27:14 pm. They arrived at 2:30:49 pm and found [REDACTED] on the ground, oriented, and alert, with labored breathing. [REDACTED] stated that he was shot and complained of shortness of breath. Paramedics determined [REDACTED] had one gunshot wound to the right upper back and one gunshot wound to the right wrist. He had good bilateral breath sounds, and a pressure dressing was applied to control the bleeding from his wrist. Ambulance 38 departed the scene at 2:40:15 pm and arrived at Stroger Hospital at 2:57:44 pm, where the paramedics transferred [REDACTED] to the trauma unit without incident.

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<sup>60</sup> Atts. 123, 129, 132, 147. COPA also requested that ISP test [REDACTED] clothing for the presence of gunshot residue. As of the date of this report, that request is still pending. Att. 43.

<sup>61</sup> Integrated Ballistics Identification System, which compares fired evidence to other crimes.

<sup>62</sup> COPA believes it is more likely than not that [REDACTED] sustained this gunshot wound in an earlier unrelated incident.

<sup>63</sup> Att. 62. COPA investigators interviewed both paramedics who treated [REDACTED] but neither provided any additional information relevant to this investigation. Atts. 101, 143-44, 156-57.

The Medical Records from Stroger Hospital<sup>64</sup> indicate that [REDACTED] was admitted to the Trauma ICU at 2:59 pm on November 29, 2017. Upon arrival, he presented with two gunshot wounds to the right wrist and one gunshot wound to the right mid-back, with clinical paralysis of the lower limbs. Doctors performed an emergency laparotomy and thoracotomy and removed the projectile from [REDACTED] upper abdomen,<sup>65</sup> but the surgery and attempts at interventional radiology were complicated by extensive scar tissue in [REDACTED] stomach resulting from a December 2015 gunshot wound. Dr. [REDACTED] pronounced [REDACTED] deceased at 1:26 am on November 30, 2017.

The Medical Examiner (M.E.) Investigations Case Report<sup>66</sup> states that Dr. [REDACTED] notified the M.E.'s Office of [REDACTED] death at 1:32 am on November 30, 2017.<sup>67</sup> The M.E.'s investigator responded to Stroger Hospital, where Dr. [REDACTED] related that [REDACTED] suffered two gunshot wounds to his right wrist and one to his back. She stated that a projectile was removed from [REDACTED] right epigastric area and inventoried as evidence, but a projectile from an unrelated<sup>68</sup> gunshot wound remained lodged in [REDACTED] right flank.

The Report of Postmortem Examination<sup>69</sup> indicates that the autopsy of [REDACTED] was performed in the morgue of the Cook County M.E.'s Office on November 30, 2017, at 7:30 am. The autopsy determined that [REDACTED] sustained one gunshot wound to the right back and one gunshot wound to the right forearm.<sup>70</sup> The projectile that entered [REDACTED] right back traveled through skin and muscular tissue and fractured his right 10th and 11th posterior ribs. It entered the right chest cavity, perforated the lower lobe of the right lung and the liver, and lodged in the epigastric region's soft tissues. The direction of the wound track was back to front, downward, and slightly right to left. The report notes the projectile was not recovered during the autopsy as, according to [REDACTED] medical records, it was removed during surgery at the hospital.<sup>71</sup>

The gunshot wound to [REDACTED] forearm entered his distal anterolateral right forearm and exited his distal anteromedial right forearm. The report notes that the wound track was surgically manipulated. The trajectory of the projectile was right to left, downward, and slightly front to back. Both gunshot wounds were of indeterminate range with no evidence of close-range firing such as soot or stippling. The pathologist determined the cause of death was multiple gunshot wounds, and the manner of death, Homicide.

A Breathalyzer Test<sup>72</sup> taken by Officer [REDACTED] at 6:36 pm on November 29, 2017, revealed that his BAC was .000. Officer [REDACTED] also submitted to a urine drug test at 6:30 pm on the same date, which produced negative results.

<sup>64</sup> Att. 87.

<sup>65</sup> Att. 87, pgs. 13-14.

<sup>66</sup> Att. 118.

<sup>67</sup> The M.E.'s Office was also notified of the death by Officer [REDACTED] # [REDACTED] who related that [REDACTED] was reportedly shot by the police during a foot pursuit.

<sup>68</sup> Att. 87, pg. 6 and Att. 137.

<sup>69</sup> Atts. 78, 115.

<sup>70</sup> This is also referred to as the gunshot wound to [REDACTED] right wrist.

<sup>71</sup> Atts. 87, 138. The pathologist recovered an unrelated projectile from [REDACTED] lateral lower right chest.

<sup>72</sup> Att. 75.

### e. Documentary Evidence

The Detectives' Supplementary Reports and General Progress Reports (GPRs) for RD # [REDACTED]/Aggravated Assault PO: Handgun<sup>73</sup> include the assigned detectives' notes from their interviews with Officers [REDACTED] and [REDACTED] which contain essentially the same information the officers provided during their statements to COPA. Additionally, the reports document the detectives' interviews with civilian witnesses [REDACTED] and [REDACTED] who provided the following information:<sup>74</sup>

- [REDACTED] told detectives he was inside [REDACTED] playing video games at the time of the incident. He saw [REDACTED] enter the front door, followed by Officer [REDACTED] and then run out of the apartment. [REDACTED] did not see [REDACTED] with anything in his hands. He heard multiple gunshots but did not see the shooting. [REDACTED] acknowledged he saw [REDACTED] prior to the incident, but he refused to provide further details to the detectives.
- [REDACTED] stated that he was playing video games inside [REDACTED] at the time of the incident. [REDACTED] saw [REDACTED] whom he told detectives he did not know, run through the apartment followed by the police. He heard gunshots but did not see the shooting.

The Tactical Response Report (TRR)<sup>75</sup> completed by Officer [REDACTED] indicates that he was on-duty, in civilian dress, and working with a partner at the time of the incident. The report states that [REDACTED] did not follow verbal directions, fled, posed an imminent threat of battery with a weapon (a semi-automatic pistol), and used force likely to cause death or great bodily harm. Officer [REDACTED] responded with member presence, verbal direction/control techniques, and discharged his firearm seven times. Officer [REDACTED] did not sustain injuries, from the incident.

According to the Arrest Report<sup>76</sup>, Officers [REDACTED] # [REDACTED] and [REDACTED] #14928 arrested [REDACTED] at 2:25 pm on November 29, 2017, at [REDACTED]. He was charged with aggravated assault on a peace officer with a weapon and the unlawful use or possession of a weapon by a felon. The incident narrative states that Officer [REDACTED] was responding to a call of shots fired when he encountered [REDACTED]. A foot pursuit ensued, during which Officer [REDACTED] observed [REDACTED] "armed with a handgun. The arrestee pointed said handgun at P.O. [REDACTED] # [REDACTED] who discharged his duty weapon striking the arrestee."<sup>77</sup>

The Major Incident Notification Report<sup>78</sup> and COPA's Preliminary Report<sup>79</sup> restate essentially the same information as the Introduction of this report, with fewer details.

<sup>73</sup> Atts. 47, 90, 108-111, 121-122.

<sup>74</sup> Att. 47 at pg. 4, Att. 122 at pgs. 135-139.

<sup>75</sup> Att. 40. At the time that Officer [REDACTED] completed the TRR, [REDACTED] was alive. As a result, Officer [REDACTED] checked the box identifying [REDACTED] injuries as "Non-fatal- Major injury."

<sup>76</sup> Att. 41.

<sup>77</sup> Att. 41, pg. 2.

<sup>78</sup> Att. 57.

<sup>79</sup> Att. 5.

**f. Additional Evidence**

The Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) National Tracing Center Report, Trace # [REDACTED]<sup>80</sup> documents that on July 24, 2015, [REDACTED] of Fairdale, West Virginia purchased the Glock Model 43 pistol from [REDACTED] Mullens, WV 25882.

The Complaint at Law in the Circuit Court of Cook County, Illinois (2018-L-[REDACTED])<sup>81</sup> alleges Officer [REDACTED] shot [REDACTED] without justification, on November 29, 2017, causing [REDACTED] death.<sup>82</sup> As of the date of this report, the case is pending.

**VI. ANALYSIS****a. Legal Standard****1. Use of Deadly Force**

The main issue in evaluating every use of force is whether the amount of force the officer used was objectively reasonable in light of the totality of the circumstances faced by the officer.<sup>83</sup> Factors to be considered in assessing the reasonableness of force include, but are not limited to, (1) whether the subject was posing an imminent threat to the officer or others; (2) the risk of harm, level of threat or resistance presented by the subject; and (3) the subject's proximity or access to weapons; (4) the severity of the crime at issue; (5) whether the subject is actively resisting arrest or attempting to evade arrest by flight.<sup>84</sup>

Department policy dictates that “[t]he use of deadly force is a last resort that is permissible only when necessary to protect against an imminent threat to life or to prevent great bodily harm to the member or another person.”<sup>85</sup> Thus, a Department member may use deadly force in only two situations. First, deadly force may be used to prevent death or great bodily harm from an imminent threat posed to the sworn member or another person. Second, deadly force may be used to prevent an arrest from being defeated by resistance or escape, where the person to be arrested poses an imminent threat of death or great bodily harm to a sworn member or another person unless arrested without delay.<sup>86</sup> “A threat is imminent when it is objectively reasonable to believe that:

- a. the subject’s actions are likely to cause death or great bodily harm to the member or others unless action is taken; and
- b. the subject has the means or instruments to cause death or great bodily harm; and
- c. the subject has the opportunity and ability to cause death or great bodily harm.”<sup>87</sup>

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<sup>80</sup> Att. 116.

<sup>81</sup> Att. 150.

<sup>82</sup> COPA obtained and reviewed copies of all of the depositions taken in connection with this lawsuit through August 29, 2019.

<sup>83</sup> General Order G03-02(III)(B)(1).

<sup>84</sup> *Id.*; *Graham v. Connor*, 490 U.S. 386, 396 (1989).

<sup>85</sup> General Order G03-02(III)(C)(3).

<sup>86</sup> *Id.*

<sup>87</sup> General Order G03-02(III)(C)(2).

Department policy recognizes that Department members must “make split-second decisions—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation. These decisions must therefore be judged based on the totality of the circumstances known by the member at the time and from the perspective of a reasonable Department member on the scene, in the same or similar circumstances, and not with the benefit of 20/20 hindsight.”<sup>88</sup>

## 2. Standard of Proof

The applicable standard of proof is a **preponderance of evidence**. A preponderance of evidence can be described as evidence indicating that it is more likely than not that the conduct reviewed violated Department policy. *See Avery v. State Farm Mutual Automobile Insurance Co.*, 216 Ill. 2d 100, 191 (2005), (a proposition is proved by a preponderance of the evidence when it has found to be more probably true than not).

### b. Legal Analysis

COPA’s analysis of Officer [REDACTED] use of deadly force rests on two major questions: (1) whether Officer [REDACTED] reasonably believed [REDACTED] possessed a firearm at the time of the incident, and (2) whether Officer [REDACTED] reasonably believed [REDACTED] pointed a firearm in his direction. After resolving these questions, COPA will address whether Officer [REDACTED] reasonably believed that [REDACTED] posed an imminent threat of death or great bodily harm and whether deadly force was necessary to eliminate the threat.

#### 1. Officer [REDACTED] Reasonably Believed [REDACTED] Possessed a Firearm

Officer [REDACTED] stated that when he encountered [REDACTED] in the courtyard of [REDACTED] [REDACTED] grabbed his right waistband, ignored verbal commands, and fled. [REDACTED] ran inside a second-floor apartment, where Officer [REDACTED] observed [REDACTED] pull a black handgun out of his waistband with his right hand. According to Officer [REDACTED] when [REDACTED] ran onto the back porch, he turned to his right and pointed the gun in Officer [REDACTED] direction.

A preponderance of the evidence demonstrates both that Officer [REDACTED] reasonably believed [REDACTED] possessed a firearm, and that [REDACTED] in fact, possessed a firearm during the incident.

Officer [REDACTED] statement that [REDACTED] was armed is consistent with his BWC video. At 2:24:44 pm, the video captures [REDACTED] exiting the apartment’s back door, retrieving what appears to be a black handgun from his waistband. [REDACTED] runs across the porch with the gun in his right hand and, as he begins descending the stairs, the gun appears to point in Officer [REDACTED] direction. After the shooting, the BWC videos of both Officers [REDACTED] and [REDACTED] show [REDACTED] lying on the ground at the base of the stairs, and a black handgun on one of the stairs above him.<sup>89</sup> The

<sup>88</sup> General Order G03-02(II)(D).

<sup>89</sup> Officer [REDACTED] BWC video captures the first close-up shot of the weapon approximately 90 seconds after the shooting. The handgun is partially visible on Officer [REDACTED] BWC video as early as 15-20 seconds after the incident.

videos also capture Officer [REDACTED] instructing Officer [REDACTED] to secure the weapon, and Officer [REDACTED] radioing dispatch, “Be advised, we’ve got a weapon recovered over here.”

An evidence technician subsequently recovered a black Model 43 pistol, with a fully loaded magazine, from the porch stairs. Although ISP did not find any suitable fingerprints on the weapon to forensically link it to [REDACTED]<sup>90</sup> COPA finds that the recovery of the weapon, coupled with the officers’ statements and BWC videos, is persuasive evidence that [REDACTED] was armed at the time of the incident.

COPA also considered the statements of the two civilian witnesses, [REDACTED] and [REDACTED] [REDACTED] who denied seeing [REDACTED] with a weapon at the time of the incident. Both witnesses reported that [REDACTED] did not have anything in his hands when he ran into the apartment; however, their accounts are consistent with Officer [REDACTED] statement that [REDACTED] did not pull out the gun until he was exiting the back door of the apartment. Neither [REDACTED] nor [REDACTED] had a clear view of [REDACTED] at that time,<sup>91</sup> or as he ran down the porch stairs. Additionally, although [REDACTED] stated that she did not know if [REDACTED] was armed on the date of the incident, during her COPA statement she acknowledged that he owned a gun. [REDACTED] also said that she had “probably” seen videos of [REDACTED] in which he possessed a gun similar in appearance to the one recovered from the porch stairs.<sup>92</sup>

Taken together, the officers’ respective statements and BWC videos, the firearm recovered from the scene, and [REDACTED] admission that [REDACTED] owned a gun make it more likely than not that [REDACTED] was armed at the time of his encounter with Officer [REDACTED]

## 2. Officer [REDACTED] Reasonably Believed [REDACTED] Pointed a Firearm in His Direction

A firearm is a deadly weapon. See *People v. Nickolopoulos*, 25 Ill. 2d 451, 454 (1962). However, mere possession of a firearm does not, in and of itself, justify a reasonable belief deadly force is necessary to prevent death or great bodily harm. Rather, it is one of several factors to be considered. See *Wienmann v. McClone*, 787 F.3d 444, 448 (7th Cir. 2015).

Officer [REDACTED] stated that when [REDACTED] reached the stairs at the end of the porch, [REDACTED] turned to his right, raised his right arm, and pointed his gun in Officer [REDACTED] direction. Fearing for his safety, Officer [REDACTED] fired seven shots at [REDACTED] from a distance of less than ten feet. Officer [REDACTED] BWC video is materially consistent with his account of the shooting. Officer [REDACTED] BWC demonstrates that as [REDACTED] turned to go down the porch stairs, he wrapped his right arm around the banister, causing the muzzle of the gun in his right hand to point in Officer [REDACTED] direction. The video, coupled with Officer [REDACTED] statement and the firearm recovered

<sup>90</sup> COPA notes that firearms commonly do not have suitable fingerprints to forensically link a firearm to a specific person, for a variety of reasons.

<sup>91</sup> Att. 152, pgs. 61-63; Att. 151, pgs. 57-58.

<sup>92</sup> According to [REDACTED] after the shooting [REDACTED] admitted he was armed, telling one of the officers that his gun was on the porch. The BWC videos of Officers [REDACTED] and [REDACTED] however, do not capture [REDACTED] saying anything other than “I can’t breathe.” As a result, COPA finds that [REDACTED] did not make this admission. [REDACTED] may have heard Officer [REDACTED] telling other officers that there was a weapon on the porch stairs.

from the porch stairs, is compelling evidence that [REDACTED] not only possessed a gun, but that [REDACTED] reasonably appeared to be pointing the firearm in the direction of Officer [REDACTED]<sup>93</sup>

There are no known independent witnesses to [REDACTED] actions at the time of the shooting. [REDACTED] stated that she was standing in the entrance to her kitchen when she saw Officer [REDACTED] discharge his weapon as he ran out the back door. From that location, [REDACTED] could not have seen [REDACTED] as he rounded the porch stairs, and [REDACTED] acknowledged as much during her deposition. None of the other occupants of the apartment witnessed any portion of the shooting,<sup>94</sup> and Officer [REDACTED] reported that he was standing in front of [REDACTED] at the time of the shooting. However, Officer [REDACTED] stated that when he arrived at the shooting scene, Officer [REDACTED] immediately pointed out a black handgun on the porch stairs and told him to secure it.

### **3. Officer [REDACTED] Reasonably Believed [REDACTED] Posed an Imminent Risk of Death or Great Bodily Harm and that Deadly Force was Necessary to Eliminate the Threat**

COPA finds that an officer with similar training and experience as Officer [REDACTED] would reasonably believe that [REDACTED] posed an imminent threat of death or great bodily harm, and that deadly force was reasonably necessary to eliminate the threat under the totality of the circumstances confronting Officer [REDACTED]. Officer [REDACTED] was confronted with a situation where: 1) he was responding to multiple 911 calls of shots fired; 2) he made eye contact with [REDACTED] who looked surprised and grabbed his right waistband; 3) [REDACTED] turned around and fled, ignoring Officer [REDACTED] verbal commands to stop; 4) [REDACTED] produced a handgun as he ran through an apartment; 5) [REDACTED] continued to hold the gun in his right hand as he exited the apartment and ran across the porch; and 6) as [REDACTED] turned down the porch stairs, he wrapped his right arm around the banister and the gun pointed in Officer [REDACTED] direction. Officer [REDACTED] use of force must be evaluated based on the information available to him when he discharged his firearm, not with the benefit of hindsight. *Graham v. Connor*, 490 U.S. 386, 397 (1989). The video evidence indicates that Officer [REDACTED] did not draw his weapon until he saw [REDACTED] holding a gun in his right hand, and he did not fire until he saw [REDACTED] pointing the gun in his direction. Regardless of whether [REDACTED] intentionally pointed his gun at the officer or whether he did it inadvertently as he turned down the stairs, his actions reasonably constituted an imminent threat of deadly force, particularly since Officer [REDACTED] had reason to believe that [REDACTED] may have discharged a firearm earlier that day. Officer [REDACTED] was required to make a split-second decision under circumstances that were tense, uncertain, and rapidly evolving. He responded by discharging his weapon, and then deescalated when he saw [REDACTED] drop his weapon and collapse on the ground, ending the

<sup>93</sup> COPA recognizes that [REDACTED] may not have intended to point his weapon at Officer [REDACTED]. However, [REDACTED] subjective intent is not controlling. When [REDACTED] turned down the stairs, his weapon was pointed in Officer [REDACTED] direction.

<sup>94</sup> In addition to [REDACTED] there were three other people inside of the apartment at the time of the incident: [REDACTED], [REDACTED] and [REDACTED] told COPA that she was in the front room of the apartment with [REDACTED] and [REDACTED] when she heard six or seven gunshots. She immediately ran out the front door and did not see who fired the shots. Similarly, [REDACTED] and [REDACTED] told CPD detectives that they heard gunshots but did not see the shooting.

threat.<sup>95</sup> After the shooting, Officer [REDACTED] immediately requested an ambulance as required by Department policy.<sup>96</sup>

Based on the totality of these circumstances, Officer [REDACTED] reasonably believed that [REDACTED] posed an imminent threat of death or great bodily harm, and that deadly force was reasonably necessary to eliminate the threat. Officer [REDACTED] use of deadly force was in accordance with Department policy. *See Bell v. Crow*, 321 F. 3d 637, 639 (7th Cir. 2003) (if a suspect threatens an officer with a weapon, the risk of serious physical harm has been established such that the police may use deadly force).

## VII. CONCLUSION

Based on the analysis set forth above, COPA concludes that Officer [REDACTED] use of deadly force was **Within Department Policy**.

## VIII. RECOMMENDATION

Officer [REDACTED] received his BWC approximately three weeks prior to this incident and, as uncovered during the course of this investigation, his BWC activation was untimely. COPA recommends the Department consider auditing Officer [REDACTED] compliance with the BWC directive<sup>97</sup> since the date of this incident, for whatever action the Department deems appropriate.

Approved:

9-12-19

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Date

Angela Hearts-Glass  
Deputy Chief Administrator-Chief Investigator

9-12-19

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Date

Sydney Roberts  
Chief Administrator

<sup>95</sup> Officer [REDACTED] asserted [REDACTED] continued to point the firearm in his direction while he was descending the stairs. There is no independent evidence to confirm or dispel Officer [REDACTED] perception. Regardless, given that Officer [REDACTED] reasonably perceived that [REDACTED] pointed the firearm in his direction as he turned to go down the stairs, it was objectively reasonable for Officer [REDACTED] to discharge seven shots in approximately two seconds, until he lost sight of the firearm.

<sup>96</sup> Officer [REDACTED] also rendered medical aid to [REDACTED]

<sup>97</sup> Special Order S03-14.

**Appendix A**

## Assigned Investigative Staff

<b>Squad#:</b>	[REDACTED]
<b>Major Case Specialist:</b>	[REDACTED]
<b>Supervising Investigator:</b>	[REDACTED] [REDACTED]
<b>Deputy Chief Administrator:</b>	Angela Hearts-Glass